

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA

CHARLESTON DIVISION

IN RE: ETHICON, INC. PELVIC REPAIR )  
SYSTEM PRODUCTS LIABILITY LITIGATION )  
 ) MDL NO. 2327  
THIS DOCUMENT RELATES TO: )  
 )

UNOPPOSED MOTION FOR QUALIFIED PROTECTIVE ORDER  
CONCERNING PRODUCTION OF CERTAIN INFORMATION MAINTAINED  
BY GOVERNMENT THIRD-PARTY PAYORS

TorHoerman Law LLC (referred to herein as “Plaintiffs’ Counsel”), as counsel for certain plaintiffs in this MDL 2327, file this Unopposed Motion for entry of a Qualified Protective Order Concerning the Production of Certain Information Maintained by Third Party Payors, as set forth in the proposed order attached hereto as Exhibit A.

Plaintiffs’ Counsel and Defendant Ethicon, Inc. and other related companies (“Ethicon”) have entered into a Confidential Master Settlement Agreement (the “MSA”) to resolve the claims related to the implantation of Ethicon’s Pelvic Repair Products as defined in the MSA. Pursuant to the MSA, Plaintiffs’ Counsel has retained Providio Lien Counsel as Lien Administrator (“Administrator”). Under the provisions of the MSA, the Administrator is responsible for identifying and resolving all liens that have been or may be asserted by Federal Medicare (part A and Part B), each State and/or Territory Medicaid Agency, the U.S. Department of Veterans’ Affairs, the U.S. Department of Defense, TRICARE, and Indian Health Services (collectively “Governmental Third-Party Payors”) asserted against settlement payments, which are related to the implantation of any of Ethicon’s Pelvic Repair Products as defined in the MSA.

Plaintiffs' Counsel and the Administrator believe that receipt of certain health information maintained by Governmental Third-Party Payors is necessary for the Administrator to resolve the liens. The information required by the Administrator contains protected health information and individually identifiable health information, some of which may be protected from disclosure pursuant to the Health Insurance Portability and Accountability Act of 1996 (42 USC §1320d *et seq.*) and the regulations promulgated thereunder (45 CFR §§ 160, 164 *et seq.*) ("HIPAA").

The attached proposed order will allow Governmental Third-Party Payors to transmit protected health information of the MSA claimants directly to the Administrator to assist in the resolution of asserted liens. Governmental Third-Party Payors producing HIPAA-protected information pursuant to this Order would be deemed to fall within the safe harbor of HIPAA for court-ordered production of personal health information, 45 C.F.R. § 164.512(e)(1), and similar provisions of State law, if any. The proposed order also provides for destruction of any protected health information produced by Governmental Third-Party Payors to the Administrator at the conclusion of the administration of the Bertram & Graf-Ethicon Qualified Settlement Fund approved by this Court on February 14, 2018.

### CONCLUSION

Plaintiffs' Counsel believe that such a Qualified Protective Order is necessary to facilitate the resolution of Governmental Third-Party Payors liens and, therefore, respectfully requests that the Court enter the proposed Order attached hereto as Exhibit A.

Dated: March 1, 2018

Respectfully submitted,

/s/ Steven D. Davis

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Artcliff	Laurie	6749
Barber	Heather	2775
Barrett	Theresa	1457
Battiste	Robin	7112
Baya	Maryam	9857
Bell	Lisa	2684
Big	Laurencita	5452
Blanchard	Gloria	1915
Bonarek	Lori	1066
Brantley	Cindy	6797
Bryant	Samantha	7102
Bryant	Patricia	6787
Bullard	Yolanda	2128
Campbell	Valerie	0136
Cayer	Diane	3746
Cirella	Lori	5083
Colon	Nidia	0467
Cook	Sue	3620
Croy	Geraldine	8231
Dailey	Kristen	4664
Davis	Sybil	9257
De Pena	Santos	7876
Dice	Denese	0242
Dill	Diane	3510
Disher	Maybess	7009
Dodd	Margaret	4444
Dollah	Heyem	4988
Ellis	April	8152
Enborg	Terri	7239
Feeley	Linda	0739
Flagg	Donna	1467
Free	Pamela	5707
Fusco	Lucie	3901
Galinsky	Norma	8960
Green	Stephanie	8330
Grennell	Sherrie	0964
Guerrero	Ines	5585
Guzman	Imelda	1397
Hale	Lori	0530
Harding	Mary	2574

Hertrampf	Christine	9276
Hicks	Cheryl	8277
Holm	Julie	3477
Howard	Debbie	8795
Howell	Donna	9092
Biegler (Hulter)	Bethany	0952
Hutchinson	Nancy	3034
Hyatt	Luis	2408
Jackson	Catherine	6900
Johnson	Therese	1860
Jones	Regina	6724
Kieras	Debra	6754
King	Melissa	6662
Leavitt	Jacinta	0160
Lehky	Elsa	2767
Lewis	Robin	2748
Madding	Linda	1385
Marshall	Gwendolyn	3395
Martyne	Carmen	1501
Matthews	Wilma	7427
McBroom	Amanda	6786
McDaniel	Kathryn	0300
Melim	Nancy	0561
Merten	Janet	0048
Mihay	Lisa	8390
Morris	Mary	7193
Nellenbach	Donna	2250
Nigh	Sarah	5346
Noack	Delena	5547
Osborne	Shelley	0826
Parrish	Kathleen	6801
Patterson	Debra	2755
Pearson	Phyllis	4741
Pena	Kathleen	9378
Perry	Katie	8614
Polanco	Yuderka	8676
Porter	Genevieve	6928
Pryor	Paula	5688
Quackenbush	Arlene	9779
Resetar	Deanna	0720
Rich	Janet	9088
Roberts	Annette	7042
Roberts	Dianne	9567
Rossetti	Sandra	0114
Saft	Rebecca	6262
Schilling	Clare	9245
Schindler	Tammy	0357

Schmitt	Judith	4888
Schubert	Kimberly	4404
Scott	Jennifer	0294
Seaward	Ethel	4994
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Sierra	Ana	2553
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Sligar	Tina	7500
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Stecher	Sharon	1190
Stewart	Jane	0263
Stimers	Dayna	7814
Cole (Teel)	Erica	6972
True	Paula	3779
Walkup	Ninna	1777
Warren	Kimberly	2219
Wells	Melinda	9842
Williams-Zavala	Rosario	2968
Wilkinson	Christina	0137
Wilson-Ramirez	Kerry	2108
Wilson	Sharon	9429
Wilson	Kathleen	1541
Wood	Nancy	0142
Woods	Lorraine	7977
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CERTIFICATE OF SERVICE

I hereby certify that on March 1, 2018, I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the CM/ECF participants registered to receive service in this MDL.

/s/Steven D. Davis